

00-R-2006

A RESOLUTION

AUTHORIZING SETTLEMENT OF ALL CLAIMS OF QUENTIN K. WIMBISH, AND TODDRICK R. WILLIAMS AGAINST THE CITY OF ATLANTA, WAINE L. PINKNEY, WILLIE T. SAULS, AND IVANT T. FIELDS IN THE CASE OF QUENTIN K. WIMBISH, ET AL. V. CITY OF ATLANTA, ET AL., CIVIL ACTION FILE NUMBER 1:97-CV-1351-RLV, FILED IN THE UNITED STATES DISTRICT COURT; TO CAUSE PAYMENT TO BE MADE IN THE AMOUNT OF ONE HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$125,000.00); AND FOR OTHER PURPOSES.

WHEREAS, on May 9, 1997, Plaintiffs Quentin Wimbish and Toddrick Williams initiated the case of Wimbish, et al. v. City of Atlanta, et al., pursuant to 42 U.S.C. §§ 1983 and 1988, as well as several state law tort claims; and

WHEREAS, the Court consolidated this case and a case titled Jackson v. City of Atlanta, et al., for the purposes of discovery, summary judgment motions, appeal and mediation; and

WHEREAS, both lawsuits stem from a shooting incident which occurred on December 7, 1995, involving Defendants Pinckney, Sauls and Fields, who were on duty as Atlanta police officers and working a plain clothes assignment; and

WHEREAS, on that morning, Defendants Pinckney, Sauls and Fields were driving an unmarked vehicle, and they followed a blue Pontiac, driven by Willie Jerry Jackson and occupied by Corey Dean, Toddrick Williams, and Quentin Wimbish, who all appeared suspicious to the officers, to a parking lot next to a business known as the Moto Cycle Shop located at 441 Marietta Street; and

WHEREAS, when the unmarked vehicle driven by the Defendant officers pulled into the parking lot alongside the blue Pontiac, none of the occupants remained in the Pontiac, so the officers exited their vehicle to investigate the Pontiac and the surrounding area, and to run a license plate check on the Pontiac; and

WHEREAS, while the officers were investigating, there was a loud automobile collision at a nearby intersection, which caused occupants of the Moto Cycle Shop, some of whom had been the occupants of the blue Pontiac, to exit the shop to see what had happened; and

WHEREAS, upon seeing the occupants of the Pontiac, Defendant Officer Sauls, who contends that he was wearing his police badge around his neck, approached the individuals at the front of the shop and, according to him, identified himself as a police officer; and

WHEREAS, Plaintiffs contend that none of the officers was wearing a police badge in a visible manner and they deny that Officer Sauls identified himself as a police officer; and

WHEREAS, when Officer Sauls approached, one of the men, Corey Dean, ran off around the building; and

WHEREAS, concerned for his safety, Officer Sauls ordered the other individuals to get on the ground, and at some point, Officer Sauls unholstered his gun; and

WHEREAS, just as Officer Sauls was reaching down to pat down the individuals on the ground, Thomas Stearns, an employee of the Moto Cycle Shop, fired gun shots from inside the store, allegedly because he believed that the shop was being robbed by the officers; and

WHEREAS, bullets fired by Mr. Stearns struck Officer Sauls, who fired his weapon in the direction of the gunfire until it was empty; and

WHEREAS, witnessing Sauls get shot, Defendant Officer Pinckney fired two shots toward the weapon in the doorway; and

WHEREAS, ricocheting gunfire killed Willie Jerry Jackson, Plaintiff Jackson's son, who was twenty-three (23) years of age and unarmed; and

WHEREAS, ricocheting gunfire wounded Plaintiff Quentin Wimbish, who also was unarmed and was struck in the back of his leg by a bullet which remains lodged in his body; and

WHEREAS, Plaintiff Toddrick Williams, who was at the entrance to the shop and also unarmed, witnessed Quentin Wimbish get shot and allegedly feared for his own life; and

WHEREAS, after the incident, Plaintiff Williams was transported to the homicide unit for questioning and Plaintiff Wimbish was arrested and confined at Grady Detention Center, where he allegedly received inadequate medical treatment; and

WHEREAS, the Office of Professional Standards of the Atlanta Police Department conducted an administrative review of the officers' actions, and charged Officer Pinckney with a violation of Work Rule 6.09, Use of Firearms, for which Pinckney was suspended for five days; and

WHEREAS, Plaintiffs allege damages as a result of the incident, which allegedly violated their Fourth and/or Fourteenth Amendment rights and allegedly constituted false arrest, false imprisonment, assault and battery, including damages for physical pain and suffering, mental stress and terror, personal degradation and humiliation, punitive damages, and attorneys' fees; and

WHEREAS, by Order dated November 30, 1998, United States District Judge Robert L. Vining denied all Defendant officers' motions for summary judgment and granted Plaintiffs' motions for summary judgment against the Defendant Officers, finding as a matter of law that they are not entitled to qualified immunity, and the Court reserved ruling on the City's motion, which is still pending; and

WHEREAS, the Defendant officers filed an interlocutory appeal in the United States Court of Appeals for the Eleventh Circuit, No. 99-8040, seeking a reversal of the District Court's grant of Plaintiff's motion for summary judgment against them and denial of their own motions for summary judgment; and

WHEREAS, the Eleventh Circuit Court of Appeals remanded both cases to the District Court for a jury trial to determine conflicting evidence regarding whether Defendants' stop of Plaintiffs was legal and for the Court to rule whether the Defendants are entitled to qualified immunity on Plaintiffs' claims that Defendants' violated Plaintiffs' right to equal protection by selectively enforcing the law against them on the basis of their race; and

WHEREAS, Judge Vining of United States District Court ordered the parties to mediate the case in an effort to reach a compromise and settlement; and

WHEREAS, over the course of three mediation sessions and a conference with the judge, the parties have agreed to settle all claims in this matter for \$125,000.00, including attorney's fees, contingent upon the approval of the Atlanta City Council and the Mayor; and

WHEREAS, by this settlement, Defendants admit no liability; and

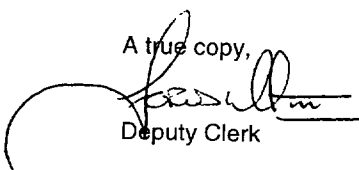
WHEREAS, the offer of settlement acceptable to the Plaintiffs is, in the opinion of the City Attorney, appropriate to settle all claims against the City arising out of the case of Quentin Wimbish and Toddrick Williams v. City of Atlanta, et al.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY RESOLVES that the City Attorney be and is hereby authorized to conclude settlement of all claims against the City of Atlanta, Officer Wayne Pinckney, Officer Willie Sauls, and Officer Ivant Fields arising out of the lawsuit filed by the Plaintiffs in the United States District Court, as set forth in Civil Action Number: 1:97-CV-1351-RLV.

THE CITY COUNCIL FURTHER RESOLVES that the Chief Financial Officer is authorized to pay the total of One Hundred Twenty Five Thousand Dollars (\$125,000.00) at the direction of the City Attorney from the account of 1A01 529017 T31001. Payment shall be in the form of a check in the amount of \$125,000.00, payable to the Clerk, United States District Court, on behalf of Quentin K. Wimbish; Toddrick R. Williams; and Nix, Delcampo, Thornton & Graddock. Such payment will be in full consideration of the dismissal of all

claims against all defendants.

A true copy,


Deputy Clerk

ADOPTED by the Council
RETURNED WITHOUT SIGNATURE OF THE MAYOR
APPROVED as per City Charter Section 2-403

DEC 04, 2000

DEC 13, 2000

RCS# 2434
12/04/00
3:58 PM

Atlanta City Council

Regular Session

CONSENT

Pages: 1-19

ADOPT

YEAS: 12
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 1

SEE ATTACHED LISTING OF
ITEMS ADOPTED/ADVERSED
ON CONSENT AGENDA

NV McCarty	Y Dorsey	Y Moore	B Thomas
Y Starnes	Y Woolard	Y Martin	Y Emmons
Y Bond	Y Morris	Y Maddox	NV Alexander
Y Winslow	Y Muller	Y Boazman	NV Pitts

ITEM (S) REMOVED FROM
CONSENT AGENDA
00-O-1874
00-O-1986
00-R-1950

CONSENT

		12/04/00 Council Meeting
ITEMS ADOPTED ON CONSENT AGENDA	ITEMS ADOPTED ON CONSENT AGENDA	ITEMS ADVERSE ON CONSENT AGENDA
1. 00-O-1289 2. 00-O-1680 3. 00-O-1792 4. 00-O-1797 5. 00-O-1003 6. 00-O-1228 7. 00-O-1795 8. 00-O-1796 9. 00-O-1860 10. 00-O-1616 11. 00-O-1853 12. 00-O-1801 13. 00-O-1963 14. 00-O-1965 15. 00-R-1788 16. 00-R-1886 17. 00-R-1953 18. 00-R-1955 19. 00-R-2009 20. 00-R-2010 21. 00-R-2011* 22. 00-R-1890 23. 00-R-1937 24. 00-R-1938 25. 00-R-1939 26. 00-R-1940 27. 00-R-1988 28. 00-R-2006 29. 00-R-2013 30. 00-R-1887 31. 00-R-2015 32. 00-R-1957 33. 00-R-1958 34. 00-R-1877 35. 00-R-2008	36. 00-R-1959 37. 00-R-1882 38. 00-R-1985 39. 00-R-1943 40. 00-R-1945 41. 00-R-1946 42. 00-R-1947 43. 00-R-1948 44. 00-R-1949 45. 00-R-1951 46. 00-R-1970 47. 00-R-2016 48. 00-R-1901 49. 00-R-1902 50. 00-R-1903 51. 00-R-1904 52. 00-R-1905 53. 00-R-1906 54. 00-R-1907 55. 00-R-1908 56. 00-R-1909 57. 00-R-1910 58. 00-R-1911 59. 00-R-1912 60. 00-R-1913 61. 00-R-1914 62. 00-R-1915 63. 00-R-1916	64. 00-R-1816 65. 00-R-1817 66. 00-R-1818 67. 00-R-1819 68. 00-R-1820 69. 00-R-1821 70. 00-R-1822 71. 00-R-1823 72. 00-R-1824 73. 00-R-1825 74. 00-R-1826 75. 00-R-1827 76. 00-R-1828 77. 00-R-1829 78. 00-R-1830 79. 00-R-1831 80. 00-R-1832 81. 00-R-1833 82. 00-R-1834 83. 00-R-1836 * President Pitts recused himself.

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Approved *Rocaelind Rubens Howell*
Deputy City Attorney

- ☐ CONSENT REFER
☐ REGULAR REPORT REFER
☐ ADVERTISE & REFER
☐ 1st ADOPT 2nd READ & REFER
☒ PERSONAL PAPER REFER

Date Referred

11/20/00

Referred To:

Public Safety + Legal

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee _____
 Date _____
 Chair *C. T. Mendenhall*
 Referred to _____

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

ADMINISTERED BY
Admin

DEC 04 2000

COUNCIL

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

FINAL COUNCIL ACTION

☐ 2nd ☐ 1st & 2nd ☐ 3rd
 Readings
☒ Consent ☐ V Vote ☐ RC Vote

CERTIFIED

CERTIFIED

DEC 4 2000

Don M. Starns

COUNCIL PRESIDENT PROTEM

CERTIFIED

DEC 04 2000

Rocaelind Rubens Howell
MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

DEC 13 2000

WITHOUT SIGNATURE
BY OPERATION OF LAW